

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
STACEY MERCER,	:	
	:	
Plaintiff,	:	
	:	
-against-	:	21-cv-8251 (VSB)
	:	
MESFIN LIQUORS INC., et al.,	:	<u>ORDER</u>
	:	
Defendants.	:	
	:	
-----X		

VERNON S. BRODERICK, United States District Judge:

This is an action for declaratory and injunctive relief brought pursuant to Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181, *et seq.* I have repeatedly prodded the parties to comply with basic deadlines and court orders. The parties have now failed to comply with my Order and Notice of Initial Conference. (Doc. 31.) If the parties do not expeditiously file a proposed case management plan and scheduling order, I may dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

Plaintiff filed this action on October 6, 2021, (Doc. 1), and filed affidavits of service on October 18, 2021, (Docs. 7 & 8). The original deadline for Defendants to respond to Plaintiff’s complaint was November 5, 2021. (See Docs. 7 & 8.) Defendants did not appear or respond to the complaint. On November 17, 2021, I directed Plaintiff to seek a default judgment by no later than December 1, 2021. (Doc. 9.) Plaintiff did so, (Docs. 10–18), and I scheduled a show cause hearing for January 28, 2022, (Doc. 19). On December 7, 2021, Defendant Mesfin Liquors Inc. (“Mesfin”) appeared and requested an extension of time to file its answer. (Docs. 21 & 22.) I granted the request, (Doc. 23), setting an answer deadline for January 7, 2022 and vacating the Certificate of Default against Defendant Mesfin, (Doc. 12). Defendant Mesfin filed an answer


on January 7, 2022. (Doc. 27.) On January 7, 2022, Defendant East River Portfolio Partners II, LLC (“East River”) likewise requested an extension of time to file its answer. (Doc. 25.) I also granted that request, (Doc. 26), setting an answer deadline for January 29, 2022 and vacating the Certificate of Default against East River, (Doc. 12). Defendant East River did not timely answer by January 29, 2022. On February 1, 2022, I directed Plaintiff to seek a default judgment against Defendant East River, again, by no later than February 8, 2022. (Doc. 29.) Plaintiff did not do so, and on February 9, 2022, I dismissed Plaintiff’s claims against Defendant East River without prejudice pursuant to Rule 41(b). (Doc. 30.) Following my order, Plaintiff moved to reinstate Defendant East River, (Doc. 32), and I granted the request, (Doc. 33). Defendant East River finally entered a notice of appearance and filed an answer on February 11, 2022. (Doc. 35).

On February 9, 2022, I issued an initial pretrial conference order, directing the parties to submit a joint letter and proposed case management plan and scheduling order on or before February 23, 2022. (Doc. 31.) The parties have not done so. Accordingly, the parties are hereby:

ORDERED to file the joint letter and proposed case management plan and scheduling order by no later than March 2, 2022. If the parties fail to do so, I may dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

SO ORDERED.

Dated: February 28, 2022
New York, New York


Vernon S. Broderick
United States District Judge